

**SAN BERNARDINO CITY UNIFIED SCHOOL DISTRICT
PERSONNEL COMMISSION
MEETING MINUTES**

August 25, 2010

A meeting of the Personnel Commission was held in the Community room at the Board of Education Building. Present were Ms. Rhonda Early, Chairperson; Mr. Gino Barabani, Vice Chairperson; and Mr. Michael Salazar, Member.

I. CALL TO ORDER

Ms. Early called the meeting to order at 5:47 p.m. Ms. Early led the Pledge of Allegiance.

II. APPROVAL OF AGENDA

Ms. Early: Approval of tonight's agenda.

Mr. Salazar: I make a motion to approve tonight's agenda.

Ms. Early: I have a question and I just want to announce that I've been on vacation. So I just came back this weekend and I have an agenda and then I have something that says Agenda Amended. I'm not sure what went on when I was gone and what Agenda we're actually; you're motioning to approve.

Mr. Salazar: I'm moving that we approve the Amended Agenda.

Mr. Barabani: I'm going to need a copy of that.

Ms. Early: This Agenda is a little bit different than the one that I received in my packet.

Mr. Barabani: Yes it's different than the one that I received in my packet.

Ms. Early: I need to ask which Agenda was posted and when was the Agenda Amended. Which Agenda was posted 72 hours in advance, was the amended agenda posted 72 hours?

Irma Garcia, Human Resource Specialist PC: No.

Ms. Early: No. Was the Agenda, the Agenda labeled, Agenda not amended was that posted 72 hours in advance?

Irma Garcia, Human Resource Specialist PC: Yes.

Ms. Early: Yes. Well we have a motion on the table to approve the Amended Agenda which didn't meet the posting requirements.

Mr. Salazar: If I may, I requested that we add one item to Agenda which was D. D is the appointee of the governing board and the appointee of the classified employees will publicly name the person that they intend to appoint for the joint appointee to the Commission for a three (3) year term commencing December 1, 2010. For the record, if we don't want to put that on this Agenda, I do want to make my appointment; I'm ready to do that, if we're not ready to do that in regular session today we can do that next month. I would also, I guess this might be the time because I've had a heck of a time putting things on the Agenda for some reason. For some reason the Agenda comes to me and then the Agenda is posted; every time I try to put something on the Agenda it's beyond that 72 hour window frame. I want to try to understand what the process and the procedures for a Commissioner to put something on the Agenda are.

Ms. Early: I remember this came up at our last Commission meeting and the issue there was you wanted to place an item under Closed Session that we would have been violating the Brown Act if we had that item under Closed Session; and there was a discussion and it is recorded in the minutes about that particular item. I'm not sure what happen while I was gone, but we do have an obligation to post all of our agendas.

Mr. Salazar: I understand that. What is the process for a Commissioner to be able to put something on the Agenda, please?

Ms. Early: It just need to meet the requirements so that we're not in (inaudible) in violation.

Mr. Salazar: So I get this 72 hours; I get this Agenda that's posted 72 hours, I get this Agenda I look at and say 'I want to add an item' and I'm too late. This is coming to me at the 72 hour mark and I'm not allowed, as a Commissioner, to put something add something to that Agenda, it doesn't make sense.

Mr. Barabani: Well that's not true.

Mr. Salazar: This is the only thing that I asked to add, I asked that to be added to Agenda on Friday.

Mr. Barabani: At what time?

Mr. Salazar: One o'clock.

Mr. Barabani: Last conversation I had with the staff was at 1:30 and no mention was made that this was being added.

Mr. Salazar: Well it was certainly before 5:30.

Mr. Barabani: Ok then before 5:30. At 1:30, when I had the conversation at 1:30 they printed out this Agenda, the regular Agenda and went out for approval. I don't understand the fact that you're stating that you had to wait until you got this. If I waited before I got

this it would never gotten out because I had to do it, because I took on the responsibility to do it.

Mr. Salazar: Just tell me what the process is.

Mr. Barabani: (inaudible) call Wednesday or Thursday or Monday or Tuesday.

Mr. Salazar: How would I know what was on the Agenda?

Mr. Barabani: You're talking about adding something.

Mr. Salazar: I don't know what was on the Agenda yet. How would I know what to add to the Agenda if I never seen the Agenda?

Mr. Barabani: When you call the staff and they tell you somebody else already added that on you would know wouldn't you?

Mr. Salazar: Did they know what was on the Agenda on Wednesday? Do you know if they did? Because I don't know if they did.

Mr. Barabani: No probably not, because I sent it to them, I'm going to say Friday. If you would've said I wanted that on the Agenda when I called and asked is there anything else? I specifically asked if Rhonda or Mike called to have anything added and I did say that on the phone, they said there wasn't anything to be added. What happened is this is not a question on whether this item can be put on or not, or whether we're disagreeing with the item. What we're just saying is, as I said Mike in the email, the public has a right to know. The Brown Act says they have to have 72 hours to be prepared and to know they're going to a meeting, this gives them time to come to a meeting, gives them time to get any documents they want to do. By posting it Monday that item is now in violation of the 72 hour; it's basically in violation of the Brown Act.

Mr. Salazar: Well since you're signing the Brown Act, let me ask a question

Mr. Barabani: And that's my opinion only.

Mr. Salazar: Because I got an email from you today and this email says that you are requested and assumed the responsibility for preparing the Agenda, who gave you authority to prepare the Agenda?

Mr. Barabani: Usually the Chairperson does it; she was on vacation and she asked could I handle it for the next month I said I would be because I am the Vice Chair.

Mr. Salazar: Where was I at?

Ms. Early: This was mentioned in the last Commission meeting.

Mr. Barabani: Yes.

Mr. Salazar: I have the minutes; I don't see it in the minutes that we talked about that in the last Commission meeting.

Ms. Early: This was mentioned the last time I was at the Commission meeting.

Mr. Salazar: Do we have the minutes?

Ms. Early: That I'll be on vacation, but I will be here before our next Commission meeting, our next scheduled Commission meeting.

Mr. Salazar: But you didn't say anything about having Mr. Barabani take care of the Agenda.

Ms. Early: He's Vice Chair.

Mr. Barabani: Did you step up to do it?

Mr. Salazar: It doesn't matter.

Ms. Early: Ok, right now we are on Approval of Agenda that is our Agenda item. Clearly if this item was not posted as amended agenda we're going to; we are talking about Approval of the Agenda that was posted in a timely manner and it's the one that says, that doesn't have amended written on it. It looks like they're the same with the exception of item D, so we will not be discussing item D during tonight's meeting. I will entertain a motion to approve the Agenda as posted, the unamended Agenda.

Mr. Barabani: I'll second that motion.

Ms. Early: So you're seconding a motion to approve the Agenda that's not amended?

Mr. Barabani: That is correct, (inaudible) that was posted Friday.

Ms. Early: I so move. Any discussion?

Bradley E. Neufeld, of Gresham Savage Tilden & Nolan: Excuse me Madam Chairperson?

Ms. Early: Yes, please.

Bradley E. Neufeld, of Gresham Savage Tilden & Nolan: Just as clarification Mr. Barabani is correct in terms of a regular meeting. 72 required posting otherwise you're very limited in what you can discuss and certainly no action under the Brown Act, but if you do a special meeting you only have that 24 hour requirement. Also, in response to Mr. Salazar's question, am I to understand then that the only thing necessary for a

Commissioner to get an agenda item onto the Agenda assuming that you put time limits the Brown Act is to speak to a staff member and then they will get it posted, is that correct?

Ms. Early: As Commission Chair I prepare the Agenda and staff will let me know if there's request to put items on the agenda.

Bradley E. Neufeld, of Gresham Savage Tilden & Nolan: So he should make that request to staff, who will then inform you and you will make the final determination?

Ms. Early: And put it on the Agenda.

Bradley E. Neufeld, of Gresham Savage Tilden & Nolan: You will put it on the Agenda?

Ms. Early: Absolutely.

Bradley E. Neufeld, of Gresham Savage Tilden & Nolan: Great, thank you.

Ms. Early: We just need to have it in a timely manner.

Mr. Barabani: For clarification I did ask if Rhonda or Mike had anything to add.

Ms. Early: Ok. We have a motion and a second in approval of the unamended Agenda. All in favor signify with the voting sign of aye.

Mr. Barabani: Aye.

Ms. Early: Aye. Any opposition?

Mr. Salazar: Nay.

III. APPROVAL OF MINUTES

Ms. Early: Nay, motion carries. Next agenda item Approval of Minutes from August the 3rd. I would like to move to approve the minutes from August the 3rd with the following corrections: under Approval of Agenda second line insert the roman numeral IV, so it's IV (A); four lines down under the same section action item at V change the roman numeral V to IV; and then on page 2, at the bottom where it says Robert Lozano insert after Mel Albiso would say "sent to" add the word "me"; on page 16 there is four sections where it says Unknown Speaker, insert the word Mr. Kendrick, that was Ms. Kendrick's husband that was speaking, so strike Unknown Speaker first line third paragraph, first line fifth paragraph, first line seventh paragraph, and sixth paragraph up from the bottom of the page where it says Unknown Speaker insert Mr. Kendrick. I move to approve the minutes with the noted corrections.

Mr. Barabani: I have some corrections.

Ms. Early: Ok.

Mr. Barabani: On page 3, August 3, 2010. On the third page it goes down there and you see "Mr. Barabani: Can I go back, who signed off? Dennis" I don't know if that's correct name I was here during that time and they used it right above his name right next to Joyce Lyons, his name the Commissioner used to be Dennis Rodell, if I remember right; if that's the way it's spelled then it's pronounced the other way, I don't know, he was a Commissioner here so it shouldn't be to hard to find.

Ms. Early: Are there any more corrections? We have a motion to approve minutes from August the 3rd with corrections, do we have a second?

Mr. Barabani: I'll second that.

Ms. Early: We have a motion with a second to approve the minutes from August the 3rd. All in favor signify with the voting sign of aye. Aye.

Mr. Barabani: Aye.

Ms. Early: Any opposition? Hearing none, motion carries. Next agenda item Approval of Minutes from the meeting of July the 28th.

Mr. Barabani: I'll second that motion.

Ms. Early: I didn't. I have a correction on page 1, 3rd line paragraph, under Ms. Early 3rd line down that paragraph "After the request" strike "request" and change that to "Agenda", so the line will read "after the agenda had been finished"; on page 2, 3rd paragraph down insert "you" so the line will read "So are" and then insert "you suggesting", in that same line strike "that we do that for" so it will read "so are you suggesting we re-agendize". Any more corrections to these set of minutes? I have one more, page 9 fourth paragraph down under Action Items, strike "buddy" and insert "lady".

Mr. Salazar: Where are we at, July 28th?

Ms. Early: We are on July the 28th.

Mr. Salazar: I'm just looking at page 9, it actually looks in public form asked that that item be re-agendized (inaudible), just for the public record I just want to say that; to remind us (inaudible).

Ms. Early: I'm sorry? I'm sorry I am not sure what you're referring to, I'm on page 9 right now.

Mr. Salazar: I'm on page 9 and this is where; maybe I should say this for the public

Ms. Early: What paragraph are you on?

Mr. Salazar: Action Items.

Ms Early: Which paragraph under Action Items?

Mr. Salazar: V, Action Items in bold.

Ms. Early: Ok, which paragraph there are several paragraphs listed under Action Item is number V on the agenda, which paragraph are you talking about?

Mr. Salazar: I'm talking about; let see, after that, one two three four five six seven, where you moved that we re-agendize Action Item V (B) which I think it was the appointment, (inaudible). (Inaudible) we'll put it on the next Agenda.

Ms. Early: For that meeting Action Item V (B) was where we had requested a representative from; in fact I could the whole paragraph, "Is there a representative from the firm of Gresham Savage Noland and Tilden present? Seeing none, I would like to move to re-agendize Action Item V (B) to our next scheduled Commission meeting".

Mr. Salazar: Gotcha ok thank you.

Ms. Early: Has everybody had a chance to review the set of minutes dated July the 28th? Yes, no?

Mr. Barabani: Yes I have.

Mr. Salazar: Yes I have.

Ms. Early: Is there any of the corrections to minutes dated July the 28th?

Mr. Barabani: I read these and they appear to be correct, I did not listen to the tape though.

Ms. Early: Hearing no other corrections for July the 28th, I move that the minutes stand approved for July 28th with the noted corrections. (Inaudible) entertain a second to that motion?

Mr. Barabani: I'll second.

Ms. Early: We have a motion and a second to approve meeting minutes dated July the 28th. All in favor signify with the voting sign of aye. Aye.

Mr. Barabani: Aye.

Ms. Early: Any opposition? Hearing none minutes stand approved with corrections. Approval of Minutes dated July the 6th.

Mr. Barabani: Madam Chair on the July 6, 2010, I did read these minutes but I did not have an opportunity to listen to the tape for; we might even have an impact on this one (inaudible) to verify it.

Ms. Early: I returned from vacation; I had a chance to review and note corrections on the two previous minutes. There are four more sets of minutes that are listed on tonight's Agenda, my package did not include the May 26th minutes so I will not be able to speak to them tonight. If you want to compare the minutes to the tape, are you requesting to re-agendize these minutes? Tell me what you want to do.

Mr. Barabani: Yes let's go ahead and re-agendize them, obviously since you didn't get the May 26th, lets do that, I did get that one but that wouldn't be fair to you.

Ms. Early: I got the two for June and all the other ones except for May 26. Commissioner Salazar (inaudible)?

Mr. Salazar: I have no comments.

Ms. Early: No comments. The Chair will entertain the motion.

Mr. Barabani: Motion that we re-agendize July 6th, June 30th, June 23rd, and May 26th.

Ms. Early: I second. All in favor of the motion signify with the voting sign of Aye.

Mr. Barabani: Aye.

Ms. Early: Aye. Any opposition?

Mr. Salazar: I'll abstain.

IV. PUBLIC COMMENTS

Ms. Early: One abstention. Motion carries. Next agenda item Public Comments.

Gary Underwood, Retired School Police and Safety Director: Good evening Commissioners my name is Gary Underwood, 29261 Lakeview Lane, Highland California. As many of you may know I am retired on July as a Chief of Police after 14 years in the school District. One of the things I'd like to talk about is the ongoing litigation between the Personnel Commission and the School District. You may not know but I've appeared before the Board of Education about three times regarding this issue. In addition, I've appeared before you a number of months ago regarding one of my employees and asking for assistance. The reason I appeared before the Board is that I'm really concerned about the impact of the impasse between the Commission and the School District. Like I told the board; I explained to the Board I found mutual cope

ability, I find the District in some ways is cope able as has been some of your staff. Personally been promised things and said things that weren't delivered to me by some of your staff and some other issues. My point is not necessarily to point fingers but just say I find both the District and the Commission somewhat at fault in the ongoing problem. Is my understanding, so far, that this year alone the District, which we all belong to and work for, has expended probably close to half a million dollars in legal fees; and in the past three years I believe that number will be in excess of 1.5 million dollars; that's money that is not available to the children to the education and essentially it flies out the door to the lawyers that fight the battles for us, I find that troubling personally. One of the things that I've been involved in over the course of the years was I was on the board of Director, I'm still on the Board of Directors of the Alta Vista Credit Union and we were reciting in the heart of Norton Air force Base and Stater Brothers wanted to build on the land that we occupied. Under the threat of imminent domain which I was asked appointed by the Board to represent the Credit Union; we met with the IBDA and the airport authority and we went into non-binding litigation and it was very useful. Both the Credit Union and Stater Brothers in this case had to give ground to some degree, but found themselves some middle ground. One of the things I recommended to the Board of Education is that since the problems have become so deep seeded that Danny Tillman the President of the Board approached and Dr. Delgado approached you, the Commissioners, with the idea of possibly of considering non-binding arbitration or some other mechanism where these problems could be worked out in a mutually agreeable way. I think one of the things that I find, I guess personally troubling, is that in Business and any kind of occupation that we work in, that the relationship that we have with each other are always based on trust, and I see the fundamental problem here is the break down of trust, which I find disappointing. I'm not necessarily surprised at considering some of the issues, and some of the staff members, and some of the behaviors on both; some of the people that you've hired and also the District, but I think these things can be overcome but they obviously will require some risk, and some personal investment, and some amiability of the part of all the Commissioners. I've asked to meet with Dr. Delgado, I have a meeting set up for Friday because there's other issues, other things that I'd like Dr. Delgado and Mr. Tillman to consider, which I don't think they're appropriate to mention over the public. I would be happy to meet with the Commissioners to discuss some of those proposals. Privately I know that I can't meet with you together because of the Brown Act, but I would like to discuss some of those proposals. I happen to know the founding members of Gresham Savage Nolan & Tilden, I also know that although this is a lucrative contract for them they take no delight in the conflict; they would probably be happy to be finished with this since it serves no useful purpose for the community. Today we have, I think, 250 open positions; that means there's 250 jobs that the School District can offer to members in our community that are going unfilled; and the School Police Department which I am more familiar with, we have a young lady here that applied and was accepted in January and I have a 40% vacancy in the dispatch which is an emergency service. She's been waiting eight months for a sign off, can't get signed off; we had a Police Officer that was approved in January couldn't get the list; Campus Security Officers and if you will recall I mentioned the CSO who was working at one of our middle schools and he lost his job because the person he had replaced came back from Afghanistan; so he found himself without a job and with a pregnant wife and children and

he couldn't come back and work as a Campus Security Officer which he was well qualified, because he couldn't get it signed off by the Commission. I don't mention these things because I'm trying to lay blame, I think that what I'm trying to get across to the Board and Commissioners, there's this enormous human component to this and hopefully, the reason to mention this, maybe will stir you to seek something else besides your current litigation, which will go on and on and on. As you look ahead the twelfth year the twelfth month there's not going to be an end to this; is the perfect storm, ego against ego and I know the Commissioners want to do the right thing I don't doubt your motivation, but I think clearly it's time to seek something, perhaps consider some other alternative, to find a peaceful solution of this so that the community benefits, the Commission which I totally support; I would like you to know that I believe in the Personnel Commission because it protects our workforce and I know that you've protected our workforce because I've been party to situations where our employees and people who are being hired clearly had their rights violated had it not been for the Commission. It's not as if I don't support the concept and the process and appreciate you but likewise the District also has a mission, it can't fulfill its mission without that cooperative and trusting relationship which has broken down. That's why I've come tonight just to take a moment out of my time; I have another meeting to attend that I excuse myself from; just to recommend to you that maybe you'll consider some other alternative. I came to the Commission a couple days ago I left my phone number there with Irma and I'd be happy to meet with you privately, each of you privately, to talk about what my suggestions are and glad to make those suggestions to Dr. Delgado on Friday. Thank you very much for your courtesy.

Ms. Early: Just to follow up, Mr. Underwood, last time you came before us you told us that failure to hire was creating an unsafe atmosphere at school sites as a follow up to your concern that you brought to us; two of your seated Commissioners did appear before the Governing Board sharing your statements requesting follow up action. We have submitted several written invitations to meet with the President of the Governing Board in an effort to resolve ongoing issues, as of today we have not received a response to those written invitations to the Governing Board President.

Gary Underwood, Retired School Police and Safety Director: Well let me just say, I appreciate your impeccable memory it's obviously you have excellent when I said, and I do appreciate that and I'm disappointed that they did not respond. I think that's part of my frustration that's why, while I'm enjoying my retirement, I feel so compelled at this particular issue that I've gone before the Board and I obviously it's very uncomfortable for Dr. Delgado and members of the staff because clearly there is cope ability there and I appreciate that. Sooner or later people are going to have to deal with, sit down and find a solution to this. I do appreciate that, thank you very much.

Steven Holt, CSEA Vice President: Steven Holt, first Vice President CSEA Chapter 183. I share some of the same thoughts with Mr. Underwood; it is affecting our classified employees. District has made it known, not in so many words, this conflict can go on and on and on, but I would like to say for the record there's always; there's a gray area and right and a wrong, by the Districts own admission today they're illegally hiring people,

contracting out against the Bill 1419, they've violated Commission Rules, they violated various laws, at what point do we stand up for what's right and fight? When the District; when they're doing wrong. Do they get to choose and pick which laws they're going to apply and follow by? To me, it's ridiculous that it's going to go on and go on and go on. I've also approached the District, my concern is classified employees that I represent and it is hurting them and it's a safety issue for the Police Department, for the classified employees I represent. However, how do fix this problem? To me, it's going to have to go to litigation because the parties aren't going to be able to come together, but I see a clear violation in the District's part and I've seen unwillingness; that we've been going through Director through Director, we've had various Commissioners sit up here come and go and yet there's always a problem with the Commission, always a problem with the Commission. to me that points out that the District does not want to recognize a Merit System, plain and simple. I am very distraught because I have people crying to me and begging me 'Mr. Holt please help me, what can we do? It's affecting my job, I can't get on I need more hours'. The District points fingers at the Commission all the time; Commission can't do anything we're tied up, I understand the pain that people are going through. I would ask the Commissioners that if there is something we could do to help expedite some signings and stuff that we do look into that. I really have a problem with saying that is sort of a mutual problem between Commission and the District; I've been in this District as an employee for 12 years, and this has been dysfunctional since I started working in this District and well before I came into this District. I really hope something can be worked out, but if you have one side that's going t just blatantly violate the laws and choose; and even on their public record, I've even heard the Board make comments to, 'well we don't agree with what the state tells us to do, we're just going to go ahead and do this'. On open record they're saying what laws and regulations they're going to follow, they blatantly violated all the time and I'm sick of hearing Commission Commission Commission; and when they're telling me they're going to hire illegally, contract out illegally, and they don't even have the audacity to tell a Union representative that they're going to do that, and they don't try to sugarcoat it or cover it up, 'we're going to do that what are you going to do about it?'. They're laying down the gaunt lint, you guys are responding, I am proud of the Commissioners for standing up and fighting for the classified people and trying to get this system back on track; it's been off track for a long time. I would ask, as well I share the sentiments of Mr. Underwood, if there is something that you guys could do, though it is affecting the moral, the health, the safety, our people, if we can work something out I'm all for that too. I do not want to, on public record, in any way let the Commission know that CSEA is 100% behind you for getting the Merit System going and on track, and that I am very alarmed about the District's comments about no matter what happens, whether it's a litigation or whatever; that we're always going to; our indications is that they're never going to recognize a Merit System and that we're always going to have problems. So what do we do just abandon the Merit System? I just would like the Commissioners, if you can talk to somebody fine, but they're not going to talk back, if Board members don't want to respond to you when you go up and talk to them, they don't want to respond to us, what can you do, your hands are tied. I'll leave at that, thank you.

Ms. Early: Thank you.

Mr. Salazar: I have a question for you Mr. Holt.

Steven Holt, CSEA Vice President: Sure, yes sir.

Mr. Salazar: Would you say that we're in an emergency status?

Steven Holt, CSEA Vice President: My indications from the District in the areas of food service alone with the workers; that they're getting to the point, not quite there where they say they may have to shut down school sites because of the staffing, in response to that they told us that they are going to hire illegally and do what they have to do because of the ongoing litigation and problems that are going on with the Commission.

Mr. Salazar: I mean you get a lot of feedback from membership, would you say this is an emergency situation?

Steven Holt, CSEA Vice President: I would say it's approaching that.

Mr. Salazar: Ok so it's not an emergency situation?

Steven Holt, CSEA Vice President: I would say it's getting close, but it's not to where I would say emergency yet.

Mr. Salazar: Thank you.

Mr. Barabani: Mr. Holt? I am glad you brought that point about; so how many Commissioners do think you seen go through there; I mean panels of different Commissioners, from my recollection just reading the paper and living in this community, minimum has been going on 5 to 6 years.

Steven Holt, CSEA Vice President: A lot longer. The only time that the District; when they say it's so called function is when we came in here and physically witnessed one District representative, who I won't mention by name, nod his head and have a rubber stamp Commission that didn't never read an agenda, never followed their own Rules, it's never worked as it was supposed to work and the day people came and started questioning or implementing the Rules and taking back the functions and duties of what the law says the Commission is supposed to have all chaos broke out. The Union was pulled into it, the Commission had to get into it, now we're stuck in the situation nobody wants to be going through this. I'm an employee I suffer; in my school we had two and a half positions abolished, I'm suffering and we can't hire anybody, we don't have substitutes going on where I work; if feel the pain and I'm a representative as well and I hear the stories, but what are you going to do? If the District will not be cooperative, if they won't sit down and be reasonable, they blow us off all the time, they don't want to sit down and talk with us, and when they do is to lecture us about how bad the Commission is. Yet, I've seen Director after Director, Commissioner after Commissioner; we've tried to intervene, we've tried to have meetings, I don't know what the solution is other than what you guys are doing, you're going through the legal steps

necessary to resolve this thing and it's going to be a long time. Now that is a fear to me because I do think that even if the Commission is successful that the District still may not recognize the Commission and if that's the case it can go on forever, but that's on the District's side, at some point we have to recognize there's an independent body is called the Personnel Commission, there's a separation power between the District the Commission and the Union that operate in this District and everyone has their own little notch and the eggs don't all fit to the District's basket as they claim; and I think that's the problem they're having, they fail to recognize this body and while they do that, you're never going to be able to come together, there's not going to be anyway you're going to be able to mediate or sit down and talk it out, not until some positions change; either on the Board, change of Board members or change of Personnel, until it happens, I think if Personnel that's the only thing that's going to make it click, where you have people who are willing to engage and talk with you.

Mr. Barabani: You've been longer that I have. You know if the Board is giving management the mandate to just sweep the Personnel Commission on to the side and say we're not going to listen to them or respect the Merit System.

Steven Holt, CSEA Vice President: Mandate from the Board members?

Mr. Barabani: Yeah, I'm curious where this is coming from.

Steven Holt, CSEA Vice President: Our perspective, we're not sure on that, but from our perspective the Board members seem somewhat clueless on what's going on. It goes up to Dr. Delgado on down; when we present stuff to them they act like they don't know what we're talking about, so I think that they're leaving it to their staff to handle it that's just my opinion for the record, but that's what the appearance is. Is that they're really are not sure about what's happening with the battle other than one or two people briefing them and telling them what's going on and a lot of information we found that they're getting is inaccurate.

Mr. Barabani: Thank you.

Patrick Maher: My name is Patrick Maher, I just want to comment briefly upon how most Merit Systems deal with the agenda maybe help you out. Generally speaking the Personnel Director is responsible for preparing the agenda; once it's in draft format the Personnel Director then confers with the Chair of the Commission who approves the final agenda, and the final agenda is then posted in conformance with the Brown Act whether it's 24 or 72 hours depending on the kind of the meeting. There are a few Districts that I've heard about in which the entire Commission gets together and meets and prepares the agenda; that's permitted under the Brown Act as long as you are not making decisions on the substance of issues but merely as to what's placed onto the agenda, that's a few Districts that do that. In this case, you don't have a Personnel Director so the entire responsibility falls on the Commission Chair. The general procedure that most Districts, in fact there was a discussion on a news group of Personnel Directors about this recently, generally speaking anyone can get a matter placed onto the agenda, Commissioner or not;

all you got to do is get the matter to the Director or to the Chair and time to prepare the agenda. If the agenda has to be posted on a certain date, generally the deadline is one to three days, business days, prior to the required posting date for the meeting for that matter to be brought to the staff or to the Chair because some matters have to be researched they have to, additional information has to be gained, they have to make sure that it conforms with all the legal requirements; sometimes just because somebody wants to do something it doesn't mean it's legal to do that. So all those kinds of things go on and then once that's done then the agenda is distributed and posted, so any Commissioner should be able to contact in the absence of the Personnel Director or the Chair any time prior to the posting time of the agenda, which means if you're having a meeting on Wednesday that's Friday, so the general deadline would be like on a noon on Thursday, that information is conveyed until Thursday. Any Commissioner, any member of the public wanting something on the agenda should not wait for the agenda to come out to see if it's on there; they should proactively contact the person responsible for it and then they should then get that information to the staff who can then prepare the agenda and then it's published with all the relevant information on it. If you want to go to bassettpc.com there's a section under there for the public and it lists how public and other members can get matters placed onto an agenda as the procedures set forth and the deadlines, that's all it takes; but to wait for an agenda to come out with limited staff and although the deadline maybe later staff go home at a certain time, they may go home at three four, four o'clock in the afternoon the day it's posted and so if you wait until the last minute then they either have to work overtime, change their personal schedule, or they can't get the matter posted. The bottom line no matter why the matter isn't posted if it's not posted within the time limits it cannot legally be acted up on doesn't matter what the process is why it got delayed, why it got stopped, if it's not posted you cannot act up on it legally under the Brown Act. So those are the limitations you may want to develop for yourself what the process is, what the deadline will be before the agenda is posted, and so on; so everybody knows what the date is, what the time is to get the matters in and they can take the initiative to get something placed onto the agenda. For individual Commissioners to contact staff and change the agenda after it's been published by somebody responsible for publishing it the Director and or the Commissioner Chair just invites chaos, confusion and misunderstanding. So I just suggest you sit down and work that among yourselves, your deadline, your procedures and any Commissioner should be able to contact, in this case you just have the Chair, contact the Chair and say I want this matter on the agenda and then that can be either discussed if there's a problem with it or it could be placed on the agenda in a timely manner.

Brenda Hatfield: Good evening my name is Brenda Hatfield, I was hired by Chief Underwood in January and I gone through much processing as far as background checks and things of this nature. I've been waiting quite some time to be hired here and I can see that there are many difficulties that you face; this is creating a bit of a hardship for me, there aren't very many jobs out there and I would just like to say that I would hope and pray that you would be able to find some way to have your department function, even though I understand that there is no signing Director at this time. It's a personal issue with me, I am really not a politician or any such thing, but I am a person in need; I just obtained guardianship of my grandchildren and I really do need this job, so I implore you

please to if you can some way, find a way to sign my paperwork it's all sitting there it's complete, it's ready, I'm ready. Did you have anything to say to me?

Mr. Barabani: Only comment, I do understand your frustration; you should take up this matter to the Governing Board.

Brenda Hatfield: The what?

Mr. Barabani: Board of Education.

Brenda Hatfield: Very well.

Mr. Barabani: Ask them also

Brenda Hatfield: Very well.

Mr. Barabani: I think they need to hear it.

Brenda Hatfield: All right, I will take your advice and I thank you for it.

Mr. Barabani: Just in case, could you leave your phone number with the staff?

Brenda Hatfield: I certainly will thank you for your time.

V. ACTION ITEMS

Ms. Early: Moving on to Actions Items number V; the Personnel Commission will receive a status report from the firm of Gresham Savage Nolan and Tilden concerning: number 1, A status report on the status of agreement for services and the payment of invoices for counsel employed by the Commission pursuant to Education Code Section 45313.

Richard Marca, of Gresham Savage Tilden & Nolan: Good afternoon Madam Chairperson, Richard Marca here on behalf of Gresham Savage and Commissioner's Salazar; before I get started somebody left their mobile phone here.

Mr. Barabani: It's a tape recorder.

Richard Marca, of Gresham Savage Tilden & Nolan: It's tape recorder, sorry about that I guess I only have myself to blame. Commissioner Early, like you I've been on vacation for a couple of weeks but a got back a week ago and found a mountain of paperwork and have been working through it. I came with the best intentions and I do have a status report, but I have my hands tied in this respect. I'd like to take this moment to make some preliminary comments that will be applicable to my response to Action Item number 1, in as a preface to some of the answers you will be hearing from my partner and colleague Bradley Neufeld; he has some substantive information that he can share but there is other information that we may have out hands tied. Its starts from this premise, you may recall

from letters received from Mr. Neufeld, my role and my law firm's role is counsel to the District; counsel that was retained by the governing board to assist the governing board on legal matters. Within that function the governing board has requested that we provide you, the Personnel Commission, aid and representation as needed, aid and representation. We are still counsel for the governing board; we cannot be separate counsel for the Personnel Commission; you may request it or you may expect it but it cannot happen. What can happen, however as Mr. Neufeld has indicated, there is a request or information that you want that results in a conflict of interest that my law firm, me, or Mr. Neufeld both say that is a conflict and that starts the process for you to have the right to secure independent counsel to advise you on those conflict issues. Today you've asked me to provide a status report on the employment agreements or the agreements for services for your independent counsel; that relates to attorneys that have been described by the Personnel Commission as attorneys retained because of conflicts, so therefore, as I understand your request they're attorneys that have not been paid; those attorneys represent potential third party claimants. In that sense, I can't divulge to you information that in any way impact potential claims from third party claimants without getting a waiver from the entire client, what I mean by waiver attorney client privilege. You are the client, but so are the District so I need a complete waiver; I need both the District and Personnel Commission to say, Mr. Marca, Gresham Savage is relieved to the attorney client privilege you're free to discuss openly in this open forum information about, why the answers why agreements of where they are, why invoices have not been paid, and when you expect them to be paid. I suspect that you'll waive that privilege right here now to start this dialogue, but I can tell you the District has not waived the privilege; so we are constrained to discuss the details. However, because of the potential claims from third party claimants, in this case unpaid lawyers; we can have that discussion openly as long as you want until I have answered every question that you might have that relates to legal services and aid in Closed Session, we can have that dialogue and I would want that dialogue because I think I could answer a lot more question than just the questions that you have asked. But apart from a complete waiver I can answer any question that you have that will not result in me divulging communication between me and the rest of the client, which is the District and their designees. It's our obligation as lawyers and is to the benefit of the entire District, including the Personnel Commission because if third party claimants make a claim based on something they hear they should not have heard because the communications that the clients, which is both you and District, have discussed with me or any member of my firm; that's bad for the whole District because there could be an unnecessary payment of a claim that they may not be there. I recognize your need for information, the proper vehicle is Closed Session, but there other things on your agenda where, I think, there are possible solutions between now and the Closed Session meaning where I can give you the full details, the who what's dates and times. I'm encouraged by that, I'm not take you out of order, but it relates to your Action Items B number 7, where you've requested my law firm to prepare procedures to help move things along; that is a great idea because there you're not asking for any specific information, there you're not asking for things that can be perceived for posturing for litigation or create conflicts; there you're asking for generic legal assistance in how to get you from point A to point B, we can do that we can get you something within weeks time that we could submit both to the Personnel Commission and the Board as guidelines and recommended procedures.

That can help move things forward in the sense of A, getting the legal assistance that you so richly deserve and B getting your outside lawyers paid that are not members of my law firm. Again to answer your specific question as called for Action number A, a status report, if you have any question that do not require the disclosure of communications between me and the rest of the client, which is the District, I can answer them here in public session. If it requires me to disclose communications that I've had with the District, which is the rest of the client, I cannot answer that without complete waivers which I do not have; I don't even know if I have your waiver quite frankly, I'm just assuming that because you've asked me to answer those questions that you would waive it, but you may not waive the attorney client privilege. With that said please I invite some more pointed questions.

Mr. Barabani: How is that not a conflict?

Richard Marca, of Gresham Savage Tilden & Nolan: How is that not a conflict? You need to be more specific as what you mean.

Mr. Barabani: Well you said that you can't give us information when you represent us you can't tell us things because the District; you're representing both the District and us, and we need certain information to continue with our investigation thing and you can't provide us, how is that not a conflict?

Richard Marca, of Gresham Savage Tilden & Nolan: From a generic stand point, I am not disclosing information from the rest of the client, is the District, but just from a generic stand point when you're asking; when the Personnel Commission asks us tell us what is the status of payment for the vendor, that is not a request for legal services, that's not a request for legal representation, under 45313 the lawyers for the governing board are to help you on legal matters that is not a legal matter; that's be no different than if the Personnel Commission were to ask us to go buy lunch for one of the staff members, which we would gladly do as a volunteer don't get me wrong, but is not a legal matter, therefore we couldn't do that work and we would say no and we do not say that's a conflict of interest it's not a legal matter that calls for a declaration of conflict or that triggers the right for legal services. Be mindful, super opposing all of this is the District's need to try to curtail, what we heard now, 1.5 million dollars in attorneys fees, I mean that's crazy. Mr. Underwood, whom I met for the first time tonight, he is right my law firm takes, straight up, no pleasure in issuing attorney's fees and things in that nature; yes, we get paid, but we believe in that profession to provide legal services; it's not about the money in the sense of why we do things, why we don't do things, we discharge what's the best interest of our client and follow our client's directive. In this instance, having us provide information that is not a legal matter is something the District, any District not just this District, generically say that is not a legal matter lawyers, it cost too much money, you cannot do that; that's generic I am not disclosing, want to make it clear, communication between counsel, your counsel, and the District. I want to make sure I answer you question, Mr. Barabani, it's not a conflict because it's a request that doesn't trigger a declaration of a conflict because there is no legal matter being, excuse me, being requested.

Mr. Barabani: That brings up another point, we did request to find out how we can get our counsel who needs to get paid; as a background there is a letter July 13 in which you partner Mr. Neufeld there, it said my partners will be sending billing guidelines with a provision lending the scope with the defense of this action once the guidelines had been signed by Ms. Kwong and revised REAS filled out, we will recommend to the board approval of those REAS. Why didn't you ever send us those billing guidelines for Ms. Kwong? And do you plan on sending any?

Richard Marca, of Gresham Savage Tilden & Nolan: That's an excellent question, that is one of those areas where I would have to divulge my communications with the other half of the part of the client; and that's one of issues that on Closed Session I would be able to answer precisely and give you the reasoning for what has and has not been done.

Mr. Barabani: So, I'm not getting when this going to happen?

Richard Marca, of Gresham Savage Tilden & Nolan: The answer is, absolutely you will get an answer, but it's going to have to be in Closed Session because there is a reasoning for the answer.

Mr. Barabani: Could you provide that in a written answer by tomorrow for us Commissioners?

Richard Marca, of Gresham Savage Tilden & Nolan: Again specifically, an answer to what?

Mr. Barabani: I want to know where's the guidelines; why didn't you ever send us the billing guidelines for Ms. Kwong? Are you planning on sending them? You said you were going to send the guidelines so we could follow along, we could follow these guidelines and then she can get paid.

Richard Marca, of Gresham Savage Tilden & Nolan: That's true, but you're assuming she would get paid, generically ok; there are some other problems and issues which I need to discuss with you in Closed Session. There is, for example, I could talk about something again without disclosing the communications from the District based on documents that are subject to the public information request, and that is the REAS that you submitted.

Mr. Barabani: You want to go into Closed Session, under what provisions?

Bradley E. Neufeld, of Gresham Savage Tilden & Nolan: Anticipated litigation.

Mr. Barabani: Anticipated litigation.

Richard Marca, of Gresham Savage Tilden & Nolan: Yeah potential third party claimants, unpaid lawyers.

Mr. Barabani: This is been a while about six weeks now as far as I can tell, since July 13, why we haven't been informed of this?

Richard Marca, of Gresham Savage Tilden & Nolan: Because if I can get a complete waiver then I can have that dialogue, but I don't have a complete waiver.

Mr. Barabani: And you may never.

Richard Marca, of Gresham Savage Tilden & Nolan: Then we resolve that, go into Closed Session, you could ask me all the questions you want that includes disclosure of reasoning and rationales and things of that nature.

Mr. Barabani: Can you give me a timeline?

Richard Marca, of Gresham Savage Tilden & Nolan: A timeline as to when?

Mr. Barabani: When this is going to happen.

Richard Marca, of Gresham Savage Tilden & Nolan: Again what? The Closed Session, That's up to you.

Mr. Barabani: No when are we going to find out why the people we hire aren't getting paid.

Richard Marca, of Gresham Savage Tilden & Nolan: Ok.

Bradley E. Neufeld, of Gresham Savage Tilden & Nolan: When it's properly agendized for a Closed Session.

Richard Marca, of Gresham Savage Tilden & Nolan: I was thinking of another way because I know where you want to go and I know you want it tomorrow.

Mr. Barabani: (Inaudible) where you want it to go; you told you were going to send me guidelines, six weeks later I don't have any guidelines. Did I get billed for those guidelines? That I didn't get, I'm curious.

Richard Marca, of Gresham Savage Tilden & Nolan: Nope. The guidelines will not solve the issue right now.

Mr. Barabani: (Inaudible) waiting for earlier then? This is frustrating, I'm sitting up here six weeks later waiting for guidelines, I never received promised guidelines so we could fulfill these guidelines so; now I'm finding out, hey they might not even get paid there is this reason, we got to go into Closed Session. You think six weeks is an acceptable amount of time to let us know?

Richard Marca, of Gresham Savage Tilden & Nolan: That's a good question, if I could have that dialogue in Closed Session I will have your answers for you.

Mr. Barabani: So more time?

Richard Marca, of Gresham Savage Tilden & Nolan: There is but, in the in term the procedures, I assume are going to asked to be developed, can expedite a lot of things; then by reading the procedures, the recommended procedures, to get resubmitted to phrase the REAS appropriately so that way it'll trigger an enhanced prospect of approval of a legal services agreement; because generically, if a legal services agreement is to broad then it exceeds 45313 then it's not, it doesn't take a whole lot to connect the dots that is not going to be approved, if it's too broad.

Mr. Barabani: Ok. So why can't you send me something by tomorrow and a week Friday, not me when I say me I'm talking about the Commission, why can't you send to the three Commissioners something in writing that states all this instead of meeting, send us a confidential letter you know don't send it off to the other side, stating what you plan in telling in Closed Session?

Richard Marca, of Gresham Savage Tilden & Nolan: Don't plan on sending, what other side? The District or the third party claimants?

Mr. Barabani: Yes, you could send us a confidential letter stating why; the same items that you want to discuss in Closed Session.

Richard Marca, of Gresham Savage Tilden & Nolan: You want to get to point A to point B, get those lawyers paid, yes?

Mr. Barabani: That's correct.

Richard Marca, of Gresham Savage Tilden & Nolan: Ok. Point A to point B, telling you all these reasons is not going to get you to point B. The procedures that you are going to take action on, item number 7 on B will help you get closer to point B as opposed to the back and forth that's going on you didn't cross this t you didn't dot this i and so forth. I understand that there really hasn't ever been an establishment of procedure that is been worked on in part by the Personnel Commission or the District regarding, how do you submit that REAF to have a legal services agreement that would enhance the prospect of its approval by the governing board, how do submit legal bills from conflict counsel without disclosing attorney client privileged information to enhance the payment by the District, who pays reasonable attorney's fees not necessarily all bills that are submitted and so forth. We can do that and with that procedure in place, where we submit a copy to you, we submit to the District, everybody has their comment, we submit our final recommended portion adopt it accept it or not, they adopt it accept it or not, but that is our recommendation there is no conflict. That I suspect, will answer a lot of your questions that you've now asked, how do we get them paid?

Mr. Barabani: Let me ask you something, I'm curious here I'm going to offer some advice here

Richard Marca, of Gresham Savage Tilden & Nolan: Sure.

Mr. Barabani: Some laymen's advice, why don't we use the procedures that they used to pay you?

Richard Marca, of Gresham Savage Tilden & Nolan: Different context. My law firm can be fired tomorrow, so the power the governing board has over my law firm is instantaneous action on any unhappiness with our services, when you have conflict counsel once that contract is approved there's there can be done related to you relationship with conflict counsel, you see? So there is a difference, we are not in the same footing in that regard.

Mr. Barabani: So what I'm understanding, you want to meet in Closed Session, you can't provide me something a written statement about what we're going to talk about, or why they're not getting paid by tomorrow or by the end of the week, right?

Richard Marca, of Gresham Savage Tilden & Nolan: Let me put it this way, tell me why they're not getting paid? Again, I'm not speaking based on communications that I've had with the District or this is not reflection of their instructions or what have you, I'm just going to give you a generic answer on a question.

Mr. Barabani: Did they give you instructions not say or something?

Richard Marca, of Gresham Savage Tilden & Nolan: I'm not going to say that, I'm not going to say one way or another because that'll be divulging communications. But if you were to ask me information that is collection like action who are find out what the temperature is outside that would all be under the same circle of information that is not a legal matter; and there is a very high probability that I would say that's not a legal matter, that's a collection matter, that's an issue between the lawyers that want to get paid and the District if they want to bring up those issues. Rather than have that back and forth, we could have as open of a dialogue and you could ask all these hypothetical's and all these questions and we could even discuss what has been discussed between me and the District members, the staff, as to the who's the what's and the why's, in that instance in Closed Session if you need that. But you want to get to point A to point B, again I go back to item number 7, that's really going to expedite not only getting us to point A to point B to get your lawyers paid faster; but it's going to, I suspect and I'm optimist in this regard, that'll pay the way for years to come on these issues. I understand, you three and my partner and I are not the first ones to broach these very same issues, I understand these issues have been going on for years and years and years before we showed in terms of when do you get paid, when can you declare conflict, when are legal services going to be approved and things of that nature with respect to the Personnel Commission. Whoever came up with that idea that's a great way to start establishing you know a

bilateral effort in both part to answer some of these questions in the past, generically and for the future.

Mr. Barabani: (Inaudible) am glad you like it, you know; bottom line is, we thought we were on that track when we received that letter from Mr. Neufeld on July 13th, he said he was going to send us dealing guidelines, I thought that was going to help it, and once again we never received them from your firm.

Richard Marca, of Gresham Savage Tilden & Nolan: And I thought so too, it's well said, but something occurred in the in term that made that more mute.

Mr. Barabani: We weren't notified.

Richard Marca, of Gresham Savage Tilden & Nolan: Ok, that is fair, you were not notified of that, but something has occurred that would make the billing guidelines mute unless we had something like you've envisioned on item number 7 in place.

Mr. Barabani: I see. When were we even going to find out if we didn't ask you to come here, you have an idea of when would've found out about this?

Richard Marca, of Gresham Savage Tilden & Nolan: You did ask me to come here.

Mr. Barabani: Right, if I hadn't when were you going to respond? We were sitting there waiting for these guidelines and nobody said, 'we're not sending you guidelines, we have conflict, we have this' nothing, we received nothing. You never (inaudible) the billing guidelines, and you never stated whether you were going to plan on sending any or you were going to make any changes. How are we expected to wait?

Richard Marca, of Gresham Savage Tilden & Nolan: Because, one you put me on notice you wanted me here to answer these questions and so I made myself available here to answer these questions; two because unfortunately if what's been occurring during my absence and even before I left and that's the back and forth letters, posturing letters and so forth, I envisioned that you would get my letter and I'd get a letter back and a letter back and forth and that we'd still be here again without any resolution, so I wanted to see all three of you face to face to tell you what I had to say, which I would have said in a letter, now so you could explore that and we could have hopefully a complete understanding of what I can and cannot do here. My recommendation and urges that you set for Closed Session to ask for any details about these specific question assuming; even if you were not to take action on item 7, the billing guidelines, hopefully, will reveal to you that we were already thinking bout doing something like somebody came up with an item 7 (B). We've go the project pretty much in the tail ends, if you take action and formally request then, I am optimistic that we'll have a pretty quick turn around too have it draft out for everybody.

Mr. Barabani: I've got some notes here, your firm yourself signed an agreement because I remember reading January 15th this year, that was approved by the governing board at the February 2nd meeting.

Richard Marca, of Gresham Savage Tilden & Nolan: I don't recall that, but you're looking at the record.

Mr. Barabani: The agreement services where your firm was approved again by the governing board on July 17 because I remember the contract ran out, I was curious; by the time we had seen it, it only had like a month to go. It seems to me that your firm is very good at getting agreement for services approved, but the attorneys that we hired aren't.

Richard Marca, of Gresham Savage Tilden & Nolan: I see the perspective and let me answer this, generically, again without divulging attorney client privilege to the rest of the client. When the District hires our firm they have the right under the Government Code to hire their lawyers under terms is appropriate for them; when the Personnel Commission wants to hire conflict counsel they are constrained by what 45313 would allow them to hire for, they don't have as broad of a right to hire conflict counsel as the governing board has. We have absolute apples and oranges, yes, the only common denominator is that there is lawyers involved, but aside from that there are different rights related to the retention of counsel and the payment of counsel that both of your bodies have; so you really can't compare the two the only denominator that's the same is that we're all lawyers whether they're your conflict lawyer and so forth, but the relative rights and perimeters of those, these of these, the Personnel Commission and the Governing Board are distinctly different.

Mr. Barabani: One of the things that I recall when Mr. Neufeld was up here when we discussed this he talked about being able to, you know to close those bonds maybe we can negotiate things, you know work together with us and the District to get some of these issues resolved. So why can't you get this agreement for services between Musick's firms and Ms. Kwong's approved?

Richard Marca, of Gresham Savage Tilden & Nolan: How does that play the role? I'm looking for the connection on closing the bonds, because what has happened ever since Mr. Neufeld has made that comment to the Personnel Commission is a series of letter some including asking my law firm to staff your offices with a lawyer from 8 to 5, 8 hours a day Monday through Friday, you could only imagine what that will do to the expenditure of attorney's fees in which it's inappropriate. Unfortunately it became

Mr. Barabani: It's not inappropriate, we're sitting here, today was a perfect example, we're sitting here discussing; I'm not an attorney and as far as I know no one up here is an attorney and we're up here discussing whether the Brown Act was violated whether we're doing things legal; we don't have a Personnel Commission, the District won't allow us to hire one, so we thought maybe we should somebody who really understands

the law to deal between the District and us, that hasn't happened either you guys refuse to do that.

Bradley E. Neufeld, of Gresham Savage Tilden & Nolan: That's not true, that's not true.

Mr. Barabani: No?

Bradley E. Neufeld, of Gresham Savage Tilden & Nolan: I've given you all my cards, I've invited you to call me if you have a legal questions, that hasn't happened. If you have a Brown Act question you have my card pick up the phone; but as Mr. Maher's referred to it said you get this hostile letters time and time again, it's not the kind of relationship I want for my client; I'm not here to be adversarial, I'm here to provide legal services, I told you that when I was here on July 6; in fact Ms. Early even agreed to meet with me to discuss some of the issues so I can help things and then subsequently after that meeting, again I get a multi-page letter going back on that agreement.

Ms. Early: Let me respond to that, I have a full time job; I was presented with an option of meeting with you on a Monday through Thursday from noon to five, the options I had was I could either meet with you in your San Bernardino location or your Riverside location, to me that was no option I'm gainfully employed, so when I replied to you and told I did not work locally, I can communicate via email, this is my phone, the dialogue was open it was a geographical issue for me. You gave me; you invited to meet on your clock your paid clock, that was not going to work for me; however, I did supply my phone number and I did supply my email address and we did exchange several emails, so refusing to meet with you is one thing, not being able to meet with you under the conditions that you recommended is two different issues. Right now we are on Action Item 1 (A), we have submitted a request for investigation on whether or not law firms that were doing work on behalf of the Commission were treated differently than any other firms within the District, do you have an answer to that question we post to you?

Richard Marca, of Gresham Savage Tilden & Nolan: No.

Ms. Early: Not an answer.

Richard Marca, of Gresham Savage Tilden & Nolan: It's not a legal matter.

Ms. Early: Not a legal matter so you did not investigate? We gave you a list of things that we were seeking information on and we included that in an investigation. So are you saying it was not a legal matter so you failed to investigate that issue?

Richard Marca, of Gresham Savage Tilden & Nolan: What I'm saying is that a different items on your agenda you're going to ask about investigations, some investigations we did, some investigation we did not do; Mr. Neufeld will talk about the distinctions between the two and the why's that he can reveal.

Ms. Early: So right now we are focusing on Action Item V (A) (1), and this is payment of invoices for counsel employment by the Commission. We gave you names of two, two firms who have already, and let me put emphasis on already, provided legal services on behalf of the Commission who have been awaiting payment since the beginning of the year; so we're talking about February, March, April, May, June, July, August, seven months in the rears of payments they have not received payment yet. We asked you if you could look into this issue to tell us if these people were being treated differently than other people who have provided services for the District and have received payment. Do you have a response for us?

Richard Marca, of Gresham Savage Tilden & Nolan: Again the answer is, it's no; I have a response in my no before is I have a response to those questions too, but I have to disclose those responses in Closed Session because it will require me to disclose communications between the District and their counsel, that's me, I'm your counsel here on these questions; so if get to Closed Session I could disclose that.

Ms. Early: This item has been agendized, I think, this is times three. Have you been receiving copies of our agendas? Mr. Neufeld?

Bradley E. Neufeld, of Gresham Savage Tilden & Nolan: I received this one, I received July 6th agenda, I don't recall receiving other agendas.

Ms. Early: My question is, if this is a Closed Session item and you have received prior agendas; why did no one contact us from your firm to tell us that we needed to agendize these things as a Closed Session item? That way we could deal with them tonight.

Bradley E. Neufeld, of Gresham Savage Tilden & Nolan: We didn't receive this particular agenda until Friday, inside the 72 hour deadline.

Ms. Early: It was agendized on our last agenda also.

Bradley E. Neufeld, of Gresham Savage Tilden & Nolan: I recall receiving it the prior agenda.

Ms. Early: July?

Bradley E. Neufeld, of Gresham Savage Tilden & Nolan: July 6, I received that agenda.

Richard Marca, of Gresham Savage Tilden & Nolan: Ms. Early, if we get the District to waive the attorney client privilege then we could and we don't necessarily get that information instantaneously in terms if they will wave or not, they want to move the things forward too, I'd hope, but as far as waving the attorney client privilege they're not going to wave the attorney client privilege.

Ms. Early: Do you and I have an attorney client privilege?

Richard Marca, of Gresham Savage Tilden & Nolan: Yes, but you're not the whole client, I need a complete waiver. Understand that you are the client no different than the District is the client; so to get a waiver I need a complete waiver, I need their waiver too. Now, when you have conflict counsel you have an attorney client relationship with that conflict counsel and they do not have a relationship of that nature with the District, that's different. As far as you and I are concerned, you are part of the client so we do have an attorney client relationship.

Ms. Early: Part of the client. So are telling me you cannot share information with me unless you get permission from the District?

Richard Marca, of Gresham Savage Tilden & Nolan: No, that's not what I'm saying to you. I'm telling you

Ms. Early: Unless you get a waiver from the District?

Richard Marca, of Gresham Savage Tilden & Nolan: No I'm not; See you're changing gears here you're talking about sharing information with you. I cannot talk in the public where potential third-party claimants can be that can hear information that I talk to my clients about that could be adverse to the clients, unless I get a waiver from everybody. As far as sharing information with you that's a different question.

Ms. Early: Since it's not on our Agenda for this evening and realizing that it might not be appropriate for you to respond to us in a public form, are you able to address this issue in a written format where you can provide this information?

Richard Marca, of Gresham Savage Tilden & Nolan: When you say this information, the status of the agreement; the answer is I could answer a number of questions, so the answer is yes, I can provide a written response on some general questions.

Ms. Early: As it relates to Action Item I (A)?

Richard Marca, of Gresham Savage Tilden & Nolan: Yes.

Ms. Early: Can you give us a timeframe on when we can receive that from you?

Kristine E. Kwong, of Musick, Peeler & Garrett LLP: If I may interject at this point, Kristine Kwong defense counsel for the current litigation between the San Bernardino School District.

Ms. Early: Excuse me Ms. Kwong can you approach the mike it's hard for us to hear you.

Kristine E. Kwong, of Musick, Peeler & Garrett LLP: Yes, Kristine Kwong I'm your defense counsel on the pending litigation the petition for rid of mandate filed by the San Bernardino School District versus the Personnel Commission, the three Personnel Commissioners, as well as Jeff Jossierand and his official capacity. On July 13th I received

notice that I needed to revise my engagement letter to specifically limited representation for this litigation only, and I revised that engagement letter and I specifically referenced only that piece of litigation, the writ only, and reference that case number only and that is all; and that was pursuant to your request and that was also pursuant to, my understanding, is what was the District needed in order to get this REAF approved and I did so. I think the interpretation of 45313 does not necessarily include any type of procedures as to how different types of counsel are compensated. 45313 does not include any specific procedures as to how the District counsel is compensated nor how conflict counsel is compensated; in fact, it says nothing. And so if there are procedures out there, I would like to know about it because I would like to conform to those procedures and I would like to know what they are immediately; because if there are any such guidelines, I was advised that I was going to be receiving billing guidelines and I haven't received any; and I have representing the Commissioners in this litigation since late 2009. If I have to go and revise my invoices to conform to procedures that I'm not aware then I have to go and revise my invoices that go all the way back to March or April. And I do have to note that at my previous firm, at Hinshaw, that engagement letter was approved and my work at Hinshaw was compensated. So whatever the procedures for back then I need to know about them, and if they changed since that time please let me know so that I could comply with what you desire; but I do ask that you do it fairly soon because we are currently in pending litigation, there is a briefing schedule that's already been set, and briefs are going to be due soon, and my opposition brief is going to be due soon; right now I don't anticipate being a third party claimant to the District, so I don't anticipate any type of litigation at all, so I'm not sure what Mr. Marca is referring to. But I would like to get those guidelines quickly so that I can fully defend the Commission in my legal obligation; and whatever those procedures are they should be a matter of public record it doesn't fall within any exceptions to the Public Records Act, and so whatever those procedures are they should be made known and it could be requested through the Public Records Act and I think that should be disclosed to me. And if there are no procedures because they don't exist then there's no reason to withhold anything; you have to make a decision as to what you would like to do and I can see that Mr. Marca has my July 29th retainer agreement, where; so I assume that you sent it to him because he's looking at it right now and I didn't give it to him, I'm assuming that the Commission gave it to him and I had also been made known that Mr. Neufeld was going to assist in getting the REAF approved and those are legal issues, because 45313 you have a right to conflict counsel, and under 45313 the conflict counsel is compensated by the District and that's under the statute; and that makes it a legal issue.

Richard Marca, of Gresham Savage Tilden & Nolan: Thank you, I'd like to talk to you some more afterwards, if you can.

Kristine E. Kwong, of Musick, Peeler & Garrett LLP: You're really welcome.

Richard Marca, of Gresham Savage Tilden & Nolan: Ms. Kwong before you leave, is this you're letter here? Is this the one you're referring to that you identified the litigation in? Was there another letter?

Kristine E. Kwong, of Musick, Peeler & Garrett LLP: No, this is the letter.

Richard Marca, of Gresham Savage Tilden & Nolan: Because there's no limitation to the litigation, it's for general labor and employment work.

Kristine E. Kwong, of Musick, Peeler & Garrett LLP: No, we revised it.

Richard Marca, of Gresham Savage Tilden & Nolan: Ok, that I don't have.

Kristine E. Kwong, of Musick, Peeler & Garrett LLP: The engagement letter was, Mr. Marca just for the record; he's looking at an engagement letter that says general employment and labor litigation but pursuant to the Commission's request I revised and specifically limited it, and my understanding was that request came from Mr. Neufeld, that I limited to specific litigation and that's exactly what I did, I limited to the specific litigation. You must be looking at an older letter, maybe?

Richard Marca, of Gresham Savage Tilden & Nolan: Is it after July? You mentioned July. Don't go beyond your letter.

Kristine E. Kwong, of Musick, Peeler & Garrett LLP: Ok. Yea, there's another letter after this.

Richard Marca, of Gresham Savage Tilden & Nolan: August then?

Kristine E. Kwong, of Musick, Peeler & Garrett LLP: It must be, there's another letter where specifically limited; because I was given that direction to revise it per your request.

Richard Marca, of Gresham Savage Tilden & Nolan: So, part of

Kristine E. Kwong, of Musick, Peeler & Garrett LLP: And it went out before the Commission for approval, if you would recall?

Mr. Barabani: Yes.

Kristine E. Kwong, of Musick, Peeler & Garrett LLP: Yes, ok. So you're looking at an old letter.

Richard Marca, of Gresham Savage Tilden & Nolan: Ok. So the REAF patterns that limitation that Ms. Kwong indicated she made in conformance to a request by Mr. Neufeld; we're half way there, we're almost there, tomorrow I'm going to dig that out and see what's there so I could take the action that I've been asked to do as far as that agreement is concerned. That guidance came from Mr. Neufeld, he and I do converse, that guidance is also part of the draft of the procedures that we started on simply to at least help the District handle these kinds of requests, not just from the Personnel Commission but future issues that may come up that are similar.

Mr. Barabani: So you're going (inaudible) guidelines and revise REAFS?

Kristine E. Kwong, of Musick, Peeler & Garrett LLP: The letter, the new agreement, is actually I think dated August 4th, so you are looking at an older agreement.

Richard Marca, of Gresham Savage Tilden & Nolan: August 4th?

Kristine E. Kwong, of Musick, Peeler & Garrett LLP: Yes. And I remember that it was sent to Mr. Neufeld, I remember that it was sent to Mr. Neufeld.

Mr. Barabani: And it was August 4th?

Kristine E. Kwong, of Musick, Peeler & Garrett LLP: It was somewhere around that time. And of course I'm very interested in that, that's why I remember.

Richard Marca, of Gresham Savage Tilden & Nolan: I don't blame you.

Mr. Barabani: Mr. Marca if she sent it August 4th, why wasn't it on the agenda for approval by the Governing Board on the 17th?

Richard Marca, of Gresham Savage Tilden & Nolan: Well Mr. Commissioner Barabani, I don't know the answer to that I apologize, I don't know but even if I did know the answer that would still be subject to the Closed Session discussion.

Mr. Barabani: Would you be able to state in public here when it will be sent to the Governing Board for action, approval?

Richard Marca, of Gresham Savage Tilden & Nolan: I could not without talking to the client (inaudible) disclose it, but what I can tell you is if it wasn't 7:30 I'd go back to the office and try to track that down and find out what's going on.

Mr. Barabani: And so, I'm trying to wrap this up, can you tell us any progress that's been made here at all towards this? Anything, anything at all.

Richard Marca, of Gresham Savage Tilden & Nolan: It's like supreme court said in art it's your matter perspective; there has been progress I know that it's not the progress that you want nor Ms. Kwong; I know she wants to get paid and she deserves to get paid, I'm a lawyer and I feel her pain I've been through bouts where I haven't gotten paid for six seven months; I worked for the FDIC, for example, they take a long time. I feel it and we'll give it undivided attention.

Mr. Barabani: I'm a simple guy

Richard Marca, of Gresham Savage Tilden & Nolan: Yea.

Mr. Barabani: Ok. If we were writing this percentage wise what kind of progress would you say you've completed so far?

Richard Marca, of Gresham Savage Tilden & Nolan: We're in the short strokes.

Mr. Barabani: What does that mean percentage wise? That would give me a better idea.

Richard Marca, of Gresham Savage Tilden & Nolan: Sure. 95%, short strokes.

Mr. Barabani: That's not one of those 95% where the other 5% makes 100% right? Ok.

Richard Marca, of Gresham Savage Tilden & Nolan: You've seen the computer programs load right? You get all excited when one to 90% then, yea.

Ms. Early: Since we were not told that this should have been a Closed Session item, are you able to provide us a written response by close of business Friday?

Richard Marca, of Gresham Savage Tilden & Nolan: No. This Friday?

Ms. Early: Right.

Richard Marca, of Gresham Savage Tilden & Nolan: No, I am absolutely indisposed between now and next Friday. I was looking at my calendar to answer your question, I want to give you a realistic date. I will tell you next Friday September 3, but that's just for your written response as you asked for, but that's not going to delay our sealing effort to work on the guidelines and things of that nature.

Ms. Early: Thank you. Any (inaudible).

Kristine E. Kwong, of Musick, Peeler & Garrett LLP: I have a comment.

Ms. Early: Yes.

Kristine E. Kwong, of Musick, Peeler & Garrett LLP: That's too long. This firm is a big firm and they have many lawyers, this issue is not a Supreme Court issue it's a very simple issue. Is all about what you need to do to get a REAF approved; and if Mr. Marca doesn't have the time, I'm sure his very competent counsel Mr. Neufeld can do it, if Mr. Neufeld can't do it I believe there was also an associate that is also capable. And I'm sure there are many many competent intelligent lawyers in his firm that could send you a letter and tell you step by step what is necessary to get this REAF approved, but to wait from the 25th to September 3rd, I find is completely unacceptable; no one should have to wait that long to get a written letter out, specially if you're 95% completed. I think it can be done sooner, like this Friday because it's a big firm and been around for a long time, and I trust this firm, and I trust the quality, and I know that they can get it done very quickly, and they can get it done competently, and they can get it done well, don't you think Mr. Marca?

Richard Marca, of Gresham Savage Tilden & Nolan: I know partners in Ms. Kwong's firm I think they can vouch for me that they know that I can get things done competently, but it's 95% that I've done; if you want me to teach somebody what I've already absorbed, and done, and the progress that would have to be made; we start from scratch,

so September 3rd is the date, understand Ms. Kwong but it's not that simple to get somebody else to start from 1% to get up to the 95% where I'm at now, doesn't work that way. So, September 3, if I can get it to you before, I absolutely will.

Mr. Barabani: What are we talking about just the letter or the payment (inaudible)?

Richard Marca, of Gresham Savage Tilden & Nolan: No, no, no, no, this is the guidelines; there are some problems that you need to be aware of in terms of the process.

Mr. Barabani: When (inaudible) problems; when do we become aware of these problems?

Richard Marca, of Gresham Savage Tilden & Nolan: Again I can't disclose that until we're in Closed Session.

Mr. Barabani: Was before Mr. Neufeld sent us this letter about the guidelines July 13th?

Richard Marca, of Gresham Savage Tilden & Nolan: Same, I'm sorry the same, I feel like I'm in front of congress right now pleading the fifth, I apologize.

Mr. Barabani: You think it's bad, you be on this side, we're trying to get stuff paid, trying to move ahead, I got people complaining they can't go to work, and all I see is stall tactics.

Richard Marca, of Gresham Savage Tilden & Nolan: This doesn't impact all your other work, whether your lawyers get paid or not. In terms of whether you going to give that poor lady that's asking for an approval of her position; if you would ask us, Mr. Neufeld Mr. Marca someone approach

Mr. Barabani: Our lawyer right there; we have a set of procedures? We don't know which ones to work with, we had new procedures and old ones and we were stopped from using procedures; we can't hire people, we have to use the old ones and sometimes the old ones we tried to revise to make them legal and try to bring them in right; So we're stuck between, as they call preferably, a rock and a hard place and you're telling me that it doesn't affect us, on the contrary it affects us very much so.

Richard Marca, of Gresham Savage Tilden & Nolan: Here's my point, see that's the kind of question that allows the Personnel Commission to move forward. Ask Mr. Neufeld; Mr. Neufeld we have an employee that showed up in open session says that she can't get her employment approved, what can we do legally to get that happen? He's going to give you an answer, very very promptly.

Mr. Barabani: That's what I was talking about, you said it's not important, that's not hard; it is, we have to follow those procedures to hire people, and if somebody gets fired by the District we have procedures we have to follow to give them a proper hearing. Right now those procedures are up in the air, and that's what she's taking on for us.

Richard Marca, of Gresham Savage Tilden & Nolan: True. But there are procedures that if you ask Mr. Neufeld to advise you what can you do now with the litigation pending to move forward, those are the kinds of questions he can answer and that'll allow you to conduct your business; that was the whole purpose behind 45313, that statute wasn't designed to provide Personnel Commission opportunities to create conflicts in every (inaudible) in every corner. It was designed;

Mr. Barabani: We didn't create this conflict; the District sued us.

Richard Marca, of Gresham Savage Tilden & Nolan: No I understand that, sure. And I didn't mean to suggest and I apologize, my point being is 45313 was to give you access to lawyers to help you answer those questions to get your job done. If you have a legal question, you had a legal question a moment ago about the Brown Act, at that moment you could have asked Mr. Neufeld he's here as counsel on behalf of the District; as far as the Brown Act is concerned, what are the rules of the Brown Act, what should we comply with the Brown Act, he can answer those questions right now if you were to ask him.

Mr. Barabani: That's when I had that issue I looked him up, I read the big name that they have on the Brown Act (inaudible) his decision but I thought it was correct. But, ok.

Richard Marca, of Gresham Savage Tilden & Nolan: That's what generally clients hires to do is to help them comply with the law, follow the law, not to get involved in fights you see. So, but you were suggesting that the delay with Ms. Kwong somehow stopped you from doing all your other business and that's why I'm clarifying.

Ms. Early: We need to limit our comments in interest of time as they related to Action Item V (A) (1); and my understanding is we will not receive written correspondence until on or before 9/3/2010, us say that there are problems existing that we don't know about, we have two law firms who have not gotten paid, are those law firms relevant, are those problems relevant to both of those firms?

Richard Marca, of Gresham Savage Tilden & Nolan: Yes.

Ms. Early: Ok, I need to reiterate, we asked you to investigate whether or not attorneys that were doing things for the Commission were treated any differently than other attorneys who have gotten paid? And so I'm hoping that you would incorporate that response in your written correspondence.

Richard Marca, of Gresham Savage Tilden & Nolan: I will.

Ms. Early: Thank you; and you have the name of the other firm?

Richard Marca, of Gresham Savage Tilden & Nolan: I do.

Ms. Early: Very good, because neither of them have gotten paid.

Richard Marca, of Gresham Savage Tilden & Nolan: Understood.

Ms. Early: We appreciate your response. Any other comments on Action Item V (A) (1)?

Richard Marca, of Gresham Savage Tilden & Nolan: I believe that covered V (A) (2) as well, did it not Commissioner Early?

Ms. Early: Well let me read V (A) (2); A report on the extent to which counsel employed by the Commission pursuant to Education Code section 45313 were treated identical to or different from how the District has treated counsel retained by the governing board in the processing of agreement for legal services and in the payment of invoices for services rendered, including the extent to which the District reviews invoices for the reasonableness of the costs and services associated therein. Any comments on V (A) (2)?

Richard Marca, of Gresham Savage Tilden & Nolan: That was part of your questions on V (A) (1)

Ms. Early: Correct.

Richard Marca, of Gresham Savage Tilden & Nolan: So, we did answer that .

Ms. Early: Any other comments? Let's move on to V (A) (3); a report on whether or not the firm has received documents from its co-counsel for the governing board on previous legal issues and correspondence to an from the Commission and on associated documents, and whether or not the firm has thoroughly reviewed these documents in order to determine facts that exist concerning issues that have been and continue concerning the Commission. Mr. Neufeld?

Bradley E. Neufeld, of Gresham Savage Tilden & Nolan: Yes, I've received the documents from Ms. Gordon's office of Atkinson and Andelson, and I have reviewed those documents; I have not received any documents from Mr. Jablin's firm, I forget the name of it MMKR, I've sent him several requests the most recent one last week.

Ms. Early: Did you receive the documents supplied by Commission staff that we had?

Bradley E. Neufeld, of Gresham Savage Tilden & Nolan: That refers to, I believe, item number 4.

Ms. Early: Ok. Did you receive documents from Commission staff?

Bradley E. Neufeld, of Gresham Savage Tilden & Nolan: Yes, yes I did and they've been reviewed.

Ms. Early: Ok.

Mr. Barabani: Have you reviewed all the historical documents (inaudible)?

Bradley E. Neufeld, of Gresham Savage Tilden & Nolan: Not me personally, but I had an associate review them and identify those documents which were relevant to the items that the Commission had asked us to look into.

Mr. Barabani: Have you developed an index of all these documents that we requested you to review?

Bradley E. Neufeld, of Gresham Savage Tilden & Nolan: An index no, but they have tabs indicating whether it's 2 (a) (b) (c) (e) (f) (g).

Mr. Barabani: Why not an index, wouldn't that make it simpler and easier to find? No?

Bradley E. Neufeld, of Gresham Savage Tilden & Nolan: I didn't think so.

Mr. Barabani: So do you plan on providing us with an index?

Bradley E. Neufeld, of Gresham Savage Tilden & Nolan: That wasn't the request from the Commission.

Mr. Barabani: As we had requested that.

Bradley E. Neufeld, of Gresham Savage Tilden & Nolan: An index of your own documents? I don't recall that request sir.

Mr. Barabani: I'll look it up. The Commission would like to have a copy of that index. We have asked several times to have that prepared.

Bradley E. Neufeld, of Gresham Savage Tilden & Nolan: An index of your own documents.

Mr. Barabani: Yes, (inaudible) documents you received and what they related to; basically what we are trying to do is review each document so you have some kind of historical perspective of what been going on here, you know I assume that would help; we would be provided competent legal services if you have more of a historical view and got all the documents.

Ms. Early: Any other comments on Action Item V(A)(3)?

Mr. Barabani: Yea the (inaudible), no.

Ms. Early: Action Item V(A)(4)? A report on whether or not the firm has thoroughly reviewed documents provided by the Commission in order to determine facts that exist concerning issues that have been and continue to exist concerning the Commission.

Bradley E. Neufeld, of Gresham Savage Tilden & Nolan: I just spoke to that.

Ms. Early: You have reviewed the documents?

Bradley E. Neufeld, of Gresham Savage Tilden & Nolan: Yes, the firm has reviewed the documents.

Ms. Early: The firm has reviewed the documents; has the firm provided the Commission with a report?

Bradley E. Neufeld, of Gresham Savage Tilden & Nolan: I didn't realize that you were requesting we'd provide you a report of our review of the documents.

Ms. Early: Can you tell me when you received the documents from the Commission?

Bradley E. Neufeld, of Gresham Savage Tilden & Nolan: I don't recall.

Ms. Early: June, May, ball park figure?

Bradley E. Neufeld, of Gresham Savage Tilden & Nolan: My best guess would be July.

Ms. Early: July, ok.

Mr. Barabani: You didn't get the records off from Jablin, right?

Bradley E. Neufeld, of Gresham Savage Tilden & Nolan: That's correct, I have not received them.

Mr. Barabani: Have you

Bradley E. Neufeld, of Gresham Savage Tilden & Nolan: Now we're back on item 3, correct?

Mr. Barabani: Kind of yeah, their kind of (inaudible) together. Have you done any follow up?

Bradley E. Neufeld, of Gresham Savage Tilden & Nolan: Yes, I've sent him three requests, the third request was actually an email from a District administrator asking him to release the documents.

Mr. Barabani: Can you tell us who that is?

Bradley E. Neufeld, of Gresham Savage Tilden & Nolan: Yolanda Ortega.

Mr. Barabani: She gave you

Bradley E. Neufeld, of Gresham Savage Tilden & Nolan: That went out last week, so I'm hopeful that I'll get the documents in short order from Mr. Jablin.

Mr. Barabani: I'm asking because I'm not sure; is that for legally obligated to transfer these requests to you?

Bradley E. Neufeld, of Gresham Savage Tilden & Nolan: Yes. The first two request were from me directly, and he subsequently on my second request indicated I need something signed by the client I need the request from the client; so I sent the request to Ms. Ortega and then she subsequently set him an email asking him to release the documents.

Ms. Early: Any more comments on Action Item V(A)(4)? Mr. Neufeld do you have any information that you want to provide to us as a status report?

Bradley E. Neufeld, of Gresham Savage Tilden & Nolan: Well again, I guess I need clarification because again this item was just asking if we had reviewed the documents, is the Commission asking that we summarize those documents in some way, or I'm not sure what the Commission is asking for in terms of a report. It was my understanding that those documents were provided to me to give me some background in assisting the Commission with the request made at the July 6 meeting, so that's why my recollection is that they were provided to me sometime subsequent to the July 6 meeting.

Mr. Barabani: Well, since I brought up the point, I'd like to add some to that type of thing; right now we're waiting for that other firm, Jablin, to provide stuff for you?

Bradley E. Neufeld, of Gresham Savage Tilden & Nolan: That's correct.

Ms. Early: We have provided all of the correspondence that we have of record between Commission and Jablin. We also provided you with a list of items that we wanted you to look into, and it was based on the background written information as it relates to 3 and 4. We did receive this correspondence August the 23rd, and it's regarding investigation of Personnel Commission agenda item; it was several things we asked you to look into, and it's a basically a mere summary I was expecting more of a detailed witness summary as opposed to I interviewed the following people and found this. I brought template of something that I was, that was more of what I expecting from you that I'm willing to provide you with a copy; we wanted more of a summary as opposed to (inaudible). I can provide you a copy.

Mr. Barabani: Madame Chair, on the July 23rd, I want to make sure we're on the same issue, what we're asking you about is, has the firm received information that you were asked to request from Yolanda Ortega concerning appointment of Classified staff.

Bradley E. Neufeld, of Gresham Savage Tilden & Nolan: I'm lost as to how this relates to item 4 of the agenda.

Ms. Early: Actually we're talking about information you would have gathered, reviewed, and utilized that to come with responses to the items that we asked you to look into and investigate on our behalf. So if he asked you, did you obtain the information, did you review the information, and yet you reply and said well yeah we got some of the

information and I reviewed some of it and my associate has reviewed some of it; we have a list of things that were of concern to us that we were hoping that you'd provide us with a detailed response. Just one of them was the non-payment of individuals who have provided legal services on behalf of the Commission; that was one of the items, but there were several of them on the list. So we are; I'm hoping that when we receive written correspondence from you it will include the other items that we asked you to look into, and I'm hoping that you will provide us with an in depth summary, and we look forward to receiving that from you. I'm hoping that since we've mentioned today September 3rd, I'm hoping that we receive that from you on or before September the 3rd and if you have associates who have looked at some of the information, I'm hoping that the two of you can communicate on that so that you would be familiar with all of the things as they relate to this Personnel Commission. Any other comments, questions, concerns? Moving on the agenda, Action Item B, move that the Commission: Schedule regular meetings on the second and fourth Wednesday of the month for September through November 2010. I so move.

Mr. Barabani: I'll second that.

Ms. Early: Any questions any discussion on this item?

Mr. Salazar: I just have a question, can we, it's probably a Kristine question actually, but can we do that? I mean I understood that we had to abide by the old Rules because we are in litigation and we couldn't change the old Rules and the old Rules actually say that we should be meeting at 4:30 on Wednesdays something to that effect, I don't remember exactly what it says but, just for point of clarification can we do that?

Kristine E. Kwong, of Musick, Peeler & Garrett LLP: Want me to answer that?

Mr. Salazar: I guess so.

Ms. Early: And while she's coming forth, let me just reiterate that we had a series of special called meetings, in fact I think we met three times during the month of June, and so this item is placed just for scheduling purposes so that we can address business as it comes to the Commission without at the last meeting calling a special call meeting; so that we can schedule meetings for the Commission as opposed to doing it at the last meeting having to call special meeting; that's the rationale for this item.

Mr. Salazar: Exactly, I respect and understand you intent, but I don't know if we can do it.

Kristine E. Kwong, of Musick, Peeler & Garrett LLP: Your current Rules that are in place don't prohibit you from doing it. You need to meet at least once a month, but it doesn't prohibit you from meeting more frequently, and in fact you can meet more frequently; you can meet emergency meetings under the Brown Act with 24-hours notice and so there is no prohibition.

Mr. Salazar: So it's a; one of those two meetings is going to be a special meeting?

Kristine E. Kwong, of Musick, Peeler & Garrett LLP: No, I'm saying you always have options; your Rules say you have to meet once a month, but it doesn't prohibit you from meeting more frequently. The Brown Act allows you to have special meetings nonetheless, so you have several options available to you so you're not limited.

Ms. Early: We have a motion on the table with a second in favor of Action Item V(B)(1); all in favor signify with the voting sign of aye.

Mr. Barabani: Aye.

Ms. Early: Aye. Any opposition?

Mr. Salazar: I'll abstain from voting because I never did have an opportunity to look at my calendar to find out if I'm available the 2nd and 4th Wednesday of the month, but I guess I'm going to have to somehow fit that in.

Ms. Early: Motion carries. Action Item V(B)(2), change the date of the regular meeting scheduled for November 24, 2010 to November 23, 2010. I so move.

Mr. Barabani: I'll second that, that's the holidays, correct?

Ms. Early: Correct.

Mr. Barabani: I'll second that.

Ms. Early: Any discussion? We have a motion and a second in favor of Action Item V(B)(2) to change the date of regular meeting scheduled on November the 24th to November the 23rd. All in favor signify with the voting sign of aye.

Mr. Barabani: Aye.

Ms. Early: Aye.

Mr. Salazar: Aye.

Ms. Early: Motion carries. Action Item V(B)(3), change the date of regular scheduled meeting from December 29, 2010 to December 15, 2010. I so move.

Mr. Barabani: I'll second that.

Ms. Early: Any discussion? All in favor signify with the voting sign of aye.

Mr. Barabani: Aye.

Ms. Early: Aye. Any opposition? Any abstentions? Motion carries. Action Item V(C), move that the Commission direct Gresham Savage Nolan and Tilden to (1) provide a summary report of all activities it engages in concerning the Personnel Commission the work performed on the 1st through 15th of each month by the 20th of each month, and for the work performed on the 16th through last day of the month on the 5th of the following month effective as of August 1, 2010. I so move.

Mr. Barabani: I'll second.

Ms. Early: Any discussion? All in favor signify with the voting sign of aye. Aye.

Mr. Barabani: Aye.

Ms. Early: Any opposition?

Mr. Salazar: I'll oppose, that's a nay.

Ms. Early: Motion carries. Action Item V(C)(2), submit a copy of all invoices; move that the Commission direct Gresham Savage Nolan and Tilden to submit a copy of all invoices sent to the District for work performed concerning the Personnel Commission from January 31, 2010 through July 30, 2010 by August 31 and a copy of all future invoices to the Commission upon sending them to the District for processing for payment. I so move.

Mr. Barabani: I'll second that.

Ms. Early: Any discussion? All in favor of the motion signify with the voting sign of aye.

Mr. Barabani: Aye.

Ms. Early: Aye. Any opposition? Any abstentions? Motion carries. Action Item V(C)(3), provide to the Commission a weekly report by Tuesday of the following week of all actions that it has taken to obtain approval of and on the progress of the payment for services for counsel employed by the Commission pursuant to Education Code Section 45313. I so move.

Mr. Barabani: I'll second that.

Ms. Early: Any discussion? All in favor of the motion signify with the voting sign of aye.

Mr. Barabani: Aye.

Ms. Early: Aye. Any opposition? Any abstentions? Motion carries. Action Item V(C)(4), move that the Commission direct Gresham Savage Nolan and Tilden to commence with the investigation as previously requested even if all files have not been received from other counsel of District.

Mr. Salazar: I'm sorry, what are you; I don't see that on the Agenda, I apologize.

Ms. Early: Its number V under Action Items, turn the page it's the second page, item number 4.

Mr. Salazar: This is my second page, and it's following the lines from there.

Ms. Early: We're on number 4.

Mr. Salazar: It's seemed like you read a lot more than that, I apologize, you mind going back over that?

Ms. Early: I read it as it was posted, you want me to read it again?

Mr. Salazar: Yeah if you don't mind.

Ms. Early: Move that the Commission direct Gresham Savage Nolan and Tilden to commence with the investigation as previously requested even if all files have not been received from other counsel of the District. I'm sorry, I made the motion, do we have a second?

Mr. Barabani: I'll second that.

Ms. Early: Any discussion?

Mr. Salazar: You know just a quick point of discussion on that, I don't know that that's a good idea because they started the investigation with incomplete materials and we're going to have to pay them for that, and they'd have to go back and fill in the gaps and maybe review stuff that they've already reviewed and we'd have to pay them for that again; so anyway for the record I don't like that idea right there.

Ms. Early: Thank you Commissioner Salazar, and just for the record we've provided them with copies of everything that we had at the Commission office. We have a motion and a second, any further discussion? All in favor of the motion signify with the voting sign of aye.

Mr. Barabani: Aye.

Ms. Early: Opposition?

Mr. Salazar: Nay.

Ms. Early: Ok, motion carries. Action Item V(C)(5), move that the Commission direct Gresham Savage Nolan and Tilden to take all necessary proactive steps forthwith, including filing complaints with the governing board and the California State Bar to compel the counsel to provide all necessary documents concerning legal services

provided to the Commission by other counsel of the governing board if they are not received by August 31, 2010. I so move.

Mr. Barabani: I'll second that.

Ms. Early: Any discussion? All in favor of the motion signify with the voting sign of aye.

Mr. Barabani: Aye.

Ms. Early: Aye. Any opposition? Any abstentions? Motion carries. Action Item V(C), move that the Commission direct Gresham Savage Nolan and Tilden to issue and enforce subpoenas pursuant to the statutory authority of the Commission to District administrators and to the governing board as necessary to compel the production of documents necessary to the investigation concerning the hiring of classified personnel. I so move.

Mr. Barabani: I will second that.

Ms Early: Any discussion on the motion?

Mr. Barabani: Yea I'll have a discussion on that, one of the things previously with the attorneys that we had discussed was that I'd like to know where we're at what steps are taken to determine if executives of the District have been promoted or appointed positions in violation of the Rules.

Bradley E. Neufeld, of Gresham Savage Tilden & Nolan: I sent the Commission a letter yesterday indicating that I was; I had a conflict and would not be able to do an investigation regarding that.

Mr. Barabani: You sent that letter yesterday?

Bradley E. Neufeld, of Gresham Savage Tilden & Nolan: Yes.

Mr. Barabani: Ok, I have not received that letter. That's ok.

Ms. Early: Neither have I.

Mr. Barabani: That's all right.

Bradley E. Neufeld, of Gresham Savage Tilden & Nolan: It was faxed and it was sent via U.S. Mail.

Mr. Barabani: I wouldn't have you that question.

Bradley E. Neufeld, of Gresham Savage Tilden & Nolan: I understand.

Ms. Early: Thank you, we look forward to receiving that correspondence, thank you. All in favor of the motion signify with the voting sign of aye.

Mr. Barabani: Aye.

Ms. Early: Aye. Any opposition? Motion carries. Action Item V(C)(7), move that the Commission direct Gresham Savage Nolan and Tilden to develop a written procedures for the governing board and the Commission so that the chair may redact privileged attorney client information in billings submitted from the district by counsel employed by the Commission under Section 45313 and to preclude non-payment or delayed payment as a result of keeping the governing board from attaining privileged attorney client communication and information. I so move.

Mr. Barabani: I second.

Ms. Early: Any discussion on the motion? All in favor of the motion signify with the voting sign of aye.

Mr. Barabani: Aye.

Ms. Early: Aye. Any opposition?

Mr. Salazar: I'll abstain.

VI. COMMISSIONER'S REMARKS

Ms. Early: One abstention, motion carries. Next agenda item VI, Commissioner's Remarks.

Mr. Salazar: Few things, first of all I was hoping that we went a little further in our process in working together and it seems like sometimes we tend to view of course to a certain extent. You know the reason I asked Mr. Holt earlier about whether or not he thought he had an emergency situation on his hands; and I was appreciative of Ms. Hatfield coming in and talking about her situation and the Chief as well. It all seems to come down to one thing, can we get people fairly employed by this District. The thing is with; we saw or heard at our last meeting that there have been instances where, I guess, an emergency was deemed, I wasn't here this is before my time but, documents were signed to move people along and get people employed and they weren't signed by a Personnel Commission Director they were actually signed by somebody from this Commission; and you know I don't know if that's a good thing, if it's a bad thing, I don't know if you could legally do it, or if your cans but it was done. I also understand that that was also done again recently following that last meeting that we had some documents that were signed. Even though we heard from Mr. Maher who said; he really opposed that, he didn't think that that was something that could be done, you had to have a Personnel Director to sign these things, and we heard from the retirees who were in here that day and they were very similar to the people that were in here today, you know they were really asking for their jobs. So that was done you know so we had some documents

that were signed, I don't know if that was an emergency I'm not sure, but they were again signed by somebody from the Commission instead of a director because we didn't have a director. I think my understanding is that there were documents that were signed for the retirees, I could be wrong I don't know, but you know the thing that really gets me is I can't tell whether we are in an emergency situation or if we're not in an emergency situation, we've been in this situation for a long long time and you know now we have all these documents right here for signature; now I don't know if these people think that we're in an emergency situation or not, but I bet if you ask them they would say that they are. You know I think, if you're going to sign one and you consider that an emergency what's the difference in signing them all. Who's making the decision when it's an emergency, or is that just you know one of those things that we simply come out and say ok when somebody comes up here and voices a complaint, that's when we get the wheels in motion, I'm not completely sure but, I don't know why these people are not as important and I would like to get an understanding of why that is. I want to go back to one other thing, this whole business on putting things on the agenda; part of the reason that I was asked to serve as Commissioner was to lend my expertise to the Commission and help, and that's all I'm here for, I'm not here to fight with other commissioners, I'm not here to fight with unions, I'm not here to fight with attorneys, I'm here really for those people to get these people fairly employed fairly and gainfully employed and I'm not interested in all the political tactics that people are pulling for their own benefit out there that doesn't interest me, and all the jockeying for jobs or whatever it is that's going on appointments and all of these things; I'm here for those people, these are the people that I'm here for. We want to get them to work; I don't know if you all are interested in that, but that's the thing that really interests me. I'll do better about getting things on the agenda in a timely matter, I just didn't know, I just didn't know that I was out of compliance, I didn't know that it was up to me to hurry up and get something on the agenda, in fact for the record I guess what I'd like to say and I don't know if this is the appropriate time to say it or not, but I would like the item that was struck from tonight's agenda, item D, to be on the agenda next month's agenda so that we can get this appointment of the third Commissioner taken care; I don't know if that's a tall order, but I'm trying to get this business moving along that's just one thing. I will work harder for the benefit of this Commission and not to upset the other Commissioners but to do things right and that's my only goal, you know I'm not here to fight with people, I'm here to help. That will conclude my comments, there's other stuff here that I could go here for an hour, but I think I'll go ahead and limit my comments.

Mr. Barabani: You know I agree with you, let the Commission do their job so we can hire these people, let's get a Commissioner hired, let's move on with the process I agree with you.

Ken Holt, CSEA Chapter President: Ken Holt, CSEA Chapter President. Just a point of clarification for you, the documents that were signed for the retirees per Yolanda Ortega, she has stated that she will not act on them because there is a legal issue with it that she doesn't believe that they are proper until she gets a legal opinion; so right now they are on hold by the District and not being acted up on until a legal comes back whether or not that was legal for the Commission to have signed those without a Director so that's the

status on that right now, and I don't know why that wasn't conveyed to you by the District so that's where we're at with that.

Mr. Salazar: My concern is the fact that they were signed.

Ken Holt, CSEA Chapter President: But you're asking.

Mr. Salazar: That's my concern.

Ken Holt, CSEA Chapter President: Ok, and the concern from the District was also that they were signed, and if they were legally allowed to sign; you're asking to sign a whole stack of documents again when the District, and quite honestly I don't know personally or the Union, if it was done legally or not; so that's a question that the District's going after, that's a question that we're going after, whether or not that was legal to be done or not. I mean if legal practices don't matter to you then I guess you could sign whatever you need to sign, but we're going the legal route District and CSEA together to get that question answered, so that's where that stands right now. There stuff been done for years that there's question whether it's legal or not, and that's why we have all these attorneys in here spending tons and tons of money that should go into the classrooms for kids, here we are today; simple solution the District could have recognized the interim director that the Commission appointed and all those documents would probably been processed and signed; is the District that refused to recognize this employee, it's not nobody else, there's no state of emergency, it was the District, and the confusion that you're here just for the kids just for the employees to get hired that's why we're here that's why Unions are here, that's the whole purpose of the Commission is. One of the responsibilities of the Commissioner a known adherent to Merit principles, you came in here with no known inherent to Merit principles, in fact almost none you had to go to the training to learn; that was one of the requirements to sit on this seat and you didn't even meet those requirements. The accusations thrown out there is not the Unions, is not the Commission, is the District that's stopping this process, they're creating this disaster they're creating the hardship for these employees at the same time they're laying off people, they're mandating overtime 10-hour shifts a day working weekends, numerous things that the District, contracting out work; just as of last night we found out another whole set of employees that they're trying to contract out, so it's not the Commission, it's not the Unions, is not people jockeying for jobs, is doing what's fair and what's right and doing a fair hiring practice that's why we're here for, follow the Ed Code that's why we have attorneys involved, we got drugged into this just the same way the Commission got drugged into this. When the District served the Commission with that restraining order they also served us, and we're involved in that same process; I want to make clear that you bashing the Union, or assuming people are jockeying you for job positions is false, and that's not why we're here.

VII. CLOSED SESSION

Ms. Early: Any other remarks? Commission will now move into Closed Session, Conference with legal counsel, Kristine E. Kwong, Musick, Peeler and Garrett LLP,

existing litigation (section 54956). Mr. Neufeld can I give you this handout before you leave?

Bradley E. Neufeld, of Gresham Savage Tilden & Nolan: Yes, thank you.

Ms Early: Sorry. Existing litigation (section 54956.9a): San Bernardino City Unified School District; Dr. Arturo Delgado vs Personnel Commission of the San Bernardino City Unified School District Case No: CIVDS 916709. Pursuant to the government code section 54957 to discuss: public employee appointment, title Personnel Commission Director (Provisional), Personnel Commission Director. We; I don't know if we're going to report out of Closed Session, I appreciate all of you for coming out I know that this was, I know that the hour is late. We will now adjourn in to Closed Session.

VIII. ADJOURNMENT

Meeting was adjourned at 8:12 p.m.